

# CONSTITUTIONAL AMENDMENT D

## JOINT RESOLUTION AMENDING LEGISLATIVE APPOINTMENT

2008 GENERAL SESSION

SENATE: 27-0-2

HOUSE: 67-0-8

### BALLOT TITLE

☐ **YES**

☐ **No**

Shall the Utah Constitution be amended to clarify that the time when the Legislature is required to divide the state into congressional, legislative, and other districts is no later than the annual general session following the Legislature's receipt of the federal census results?

### IMPARTIAL ANALYSIS

#### Constitutional Amendment

D modifies a provision requiring the Legislature to divide the state into congressional, legislative, and other districts. The Amendment changes the time frame in which the Legislature is required to make those divisions to be no later than the annual general session following the Legislature's receipt of the federal census results.

#### Current provisions of the Utah Constitution

Under the current Utah Constitution, the Legislature is required to divide the state into congressional, legislative, and other districts at the session next following the federal census. The time frame established by that provision raises two potential issues.

First, the next session after the federal census could potentially be a special session called by the Governor for something unrelated to dividing the state into districts. Even if the Legislature later divided the state into districts at or before the next annual general session of the Legislature, the dividing into districts at that time could be seen as a violation of the Utah Constitution because the dividing did not happen at the earlier special session, which arguably is the "session next following" the federal census.

Second, the time frame established by the current Utah Constitution for the Legislature to divide the state into districts is arguably based on when the federal census takes place, not the Legislature's receipt of the census results. The results of the federal census do not become available until the year after the actual census is conducted. By the time the results of a census are made available, the Legislature has held its next annual general session. The Legislature is currently unable to divide the state into districts at that annual general session, even though it falls after the federal census is conducted, because the results of the federal census are not yet available. The Legislature's failure to divide the state at that annual general session could be seen as a violation of the Utah Constitution's requirement to divide the state at the "session next following" the federal census, even though the Legislature could not accomplish the division because the census results were not yet available.

#### Effect of Constitutional Amendment D

Constitutional Amendment D changes the language describing the time frame that applies to the Utah Constitution's requirement for the Legislature to divide the state into districts. The Amendment requires the Legislature to divide the state into districts no later than the annual general session next following the Legislature's receipt of the federal census. Under this Amendment, whether one or more special sessions are held before the Legislature divides the state into districts does not matter as long as the Legislature divides the state into districts no later than the following annual general session. Likewise, Constitutional Amendment D clarifies that the deadline for the Legislature to divide the state into districts is the annual general session after the Legislature's receipt of the federal census results.

#### Effective date

If approved by voters, Constitutional Amendment D takes effect January 1, 2009.

## IMPARTIAL ANALYSIS (continued)

### Fiscal impact

Enactment of this Amendment will not likely result in any increase or decrease in revenue or cost to state or local government.

### ARGUMENT IN FAVOR

Constitutional Amendment D is a simple technical change to a constitutional provision addressing the timing of redistricting actions.

Currently, the Legislature is required to finalize new congressional, legislative, and other districts at the next session after the U.S. Census Bureau conducts the census. The problem is that the U.S. Census Bureau does not release the results of the census, upon which the redistricting is based, until April following the census year, a month after the adjournment of the Legislature's annual General Session.

Because the U.S. Census Bureau's count takes place in 2010, the Legislature should finalize the redistricting at the next legislative session (i.e. the 2011 General Session). However, the U.S. Census Bureau would most likely release the census data around April of 2011 (about a month after the 2011 General Legislative Session is complete). Without this constitutional amendment, technically, the Legislature would be required to redistrict based on data it does not yet have.

The proposed change in the constitutional language would require the Legislature to adopt redistricting plans no later than the annual General Session *following* receipt of the results, as opposed to the General Session following the year the census is taken.

A yes vote on Amendment D will allow Utah to receive census data, develop redistricting plans, consider public input, and form new districts in an orderly, common-sense manner

-Curtis S. Bramble  
Utah Senate Majority Leader

### ARGUMENT AGAINST

No argument submitted.

## COMPLETE TEXT CONSTITUTIONAL AMENDMENT D

### Utah Constitution Sections Affected:

AMENDS:

**ARTICLE IX, SECTION**

### Utah Constitution Sections Affected:

AMENDS:

**ARTICLE IX, SECTION 1**

*Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:*

Section 1. It is proposed to amend Utah Constitution Article IX, Section 1, to read:

**Article IX, Section 1. [Dividing the state into districts.]**

[At] No later than the annual general session next following the Legislature's receipt of the results of an enumeration made by the authority of the United States, the Legislature shall divide the state into congressional, legislative, and other districts accordingly.

Section 2. **Submittal to voters.**

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. **Effective date.**

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2009.